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FILED
STATE OF OREGON
BAKER CO CIRCUIT COURT
15 MAY 13 PM 1:27
TRIAL COURT CLERK
BY *Stoner*

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF BAKER

NATURAL STRUCTURES, INC.,
an Oregon corporation,

Plaintiff,

vs.

PETE VICARI GENERAL
CONTRACTOR, L.L.C.,
a Louisiana limited liability company,

Defendant.

Case No. **15 361**

COMPLAINT – SUIT FOR MONEY
JUDGMENT FOR BREACH OF
CONTRACT – FAILURE TO PAY
BALANCE OF CONTRACT PRICE -
NOT SUBJECT TO MANDATORY
ARBITRATION

Plaintiff alleges:

COUNT ONE
(Action on Express Contract)

1.

At all times herein alleged, Plaintiff was and is an Oregon corporation acting by and through its duly authorized officers and agents.

2.

At all times herein alleged, Defendant, was a limited liability company acting by and

COMPLAINT – SUIT FOR MONEY JUDGMENT
FOR BREACH OF CONTRACT – FAILURE TO
PAY BALANCE OF CONTRACT PRICE -
NOT SUBJECT TO MANDATORY ARBITRATION

SILVEN, SCHMEITS & VAUGHAN
ATTORNEYS AT LAW
1950 Third Street - P.O. Box 965
Baker City, OR 97814
541-523-4444 • FAX 541-523-9368

1 through its authorized members including Peter G. Vicari. Such actions of Defendant's agents
 2 include, without limit, contracting with Plaintiff for goods and services performed by Plaintiff in
 3 the State of Oregon, Baker County in accord with the following contract documents, herein
 4 collectively called the "Contract:"

5 2.1 Defendant contracted to purchase from Plaintiff all goods and services more fully
 6 described in that certain "Purchase Agreement" dated July 9, 2013 for its "Lafitte
 7 Seafood Pavilion" project, a copy of which is attached hereto as Exhibit "1," for a
 8 total contract price of \$182,092.00 as invoiced by Plaintiff to Defendant under its
 9 Invoice No. 13-S141A dated September 5, 2014, a copy of which is attached
 10 hereto as Exhibit "2."

11 2.2 After Plaintiff inserted the agreed payment and other terms on page 1 of the
 12 Purchase agreement: *"One-third down (\$60,697.00) on Approved Submittals &*
 13 *per Natural Structures' terms of Acknowledgment of Sale. Balance due net*
 14 *thirty (30) days on approved credit,"* then signed and dated it on August 6, 2013,
 15 and returned it to Defendant. Defendant altered these terms by striking out *"per*
 16 *Natural Structures' terms of Acknowledgment of Sale,"* then signed and dated
 17 the Purchase Agreement August 14, 2013 without returning a copy or notifying
 18 Plaintiff of the alteration. Plaintiff proceeded in good faith to provide the goods
 19 and services based on the unaltered Purchase Agreement and submitted its invoice
 20 on that basis.

21 3.

22 The Courts of the State of Oregon, and specifically Baker County Circuit Court, have
 23 jurisdiction herein pursuant to ORCP 4E (local services, goods or contracts) based on the
 24 Contract between Plaintiff and Defendant. In reliance on the Contract, Plaintiff provided
 25 Defendant the local goods and services therein described and fully performed all of Plaintiff's
 26 obligations in reliance on Defendant's express agreement to pay the Contract price of

1 \$182,092.00 plus an agreed change order ("Order 1") adding an additional \$696.00 for a total
 2 Contract price of \$182,788.00 of which Defendant has paid \$105,306.00 but no further sums
 3 despite Plaintiff's demand for payment.

4 4.

5 Per the Contract, Defendant agreed to pay Plaintiff the total Contract price thirty (30)
 6 days after shipment. The sum due and owing from Defendant to Plaintiff under the Contract is
 7 the sum of \$77,482.00. Under the terms of the Acknowledgment of Sale referred to in paragraph
 8 2.2 above, under which Plaintiff supplied the goods and services to Defendant, said sum would
 9 accrue a finance charge of 1.5% per month on any past due balance until paid, being the sum of
 10 \$38.74 per day from October 6, 2014 until paid. Defendant is indebted to Plaintiff in the
 11 foregoing sums pursuant to the terms of the Contract.

12 5.

13 In addition to the foregoing sums, Plaintiff should be awarded its costs and fees incurred
 14 herein including the applicable prevailing party fee of \$5,000.00 based upon the conduct of
 15 Defendant in the transactions or occurrences that give rise to this proceeding, being Defendant's
 16 bad faith denial of payment and the lack of any objectively reasonable basis for non-payment.

17 WHEREFORE, Plaintiff prays for a money judgment against Defendant, in the following
 18 sums: \$77,482.00 plus ongoing finance charges on said sum at the rate of \$38.74 per day from
 19 October 6, 2014 until paid; and for Plaintiff's costs and disbursements incurred herein, including
 20 the applicable prevailing party fee in the sum of not less than \$5,000.00.

21 DATED this 13 day of MAY, 2015.

22 SILVEN, SCHMEITS & VAUGHAN

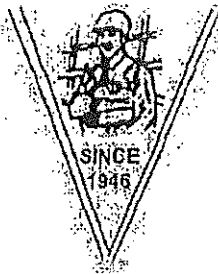
23 By: [Signature]

24 Floyd C. Vaughan OSB#784167
 25 Attorney for Plaintiff

26 I certify the foregoing is a true
 copy of the original.

Attorney for Plaintiff

SEP 09 2013



PETE VICARI

GENERAL CONTRACTOR, L.L.C.

1900 DESTREHAN AVENUE / HARVEY, LA 70058
 (504) 347-1196 office / (504) 347-1522 fax
 www.petevicarl.com / Email: office@petevicarl.com / LA License # 1670

PURCHASE AGREEMENT

DATE: July 9, 2013 NO. 1301-2

ITEM: Metal Building CODE: 53

SUPPLIER NAME: Natural Structures
 P.O. Box 270
 Baker City, OR 97814

PROJECT: Lafitte Seafood Pavilion
 920 Jean Lafitte Boulevard
 Lafitte, LA 70067

ARCHITECT: Meyer Engineers, Ltd.
 4937 Hearst Street, Suite 1B
 Metairie, LA 70001

OWNER: Town of Jean Lafitte
 2624 Jean Lafitte Boulevard
 Lafitte, LA 70067

Nov. 15th

SPECIFICATIONS ENTITLED: Lafitte Seafood Pavilion

SPECIFICATIONS DATED: September 14, 2012

IN PARTICULAR: Base Bid Only. No alternates included.
 Bidding and Contracting Documents and General Requirements per specifications
 Prevailing Wage and Section 3 and Segregated Facilities apply per specifications

TECHNICAL SPECIFICATIONS

Specification # 13120 - Pre-Engineered Structure - Furnish and Fabricate all Three (3) Pavilions as per plans and specifications.

- 1 Pavilion 32' x 80'
- 2 Pavilions 30' x 30'

ANYTHING SHOWN IN THE PLANS AND SPECIFICATIONS OR VICE VERSA, SHALL BE CONSIDERED AS THOUGH SHOWN BY BOTH. All materials, workmanship, plant and equipment are subject to the approval of the Architect, Owner, and Contractor.

Furnish materials per plans and specifications complete. Contractor agrees to pay One Hundred and Eighty Two Thousand, Ninety Two Dollars (\$182,092.00) delivered to jobsite (including freight), does not include sales tax.

Terms: ~~Net 30 days~~. All materials are FOB truck jobsite.

1/3 down (\$60,697) on Approved Submittals ~~for Natural Structures~~ ^{JA 8/6/2013}
~~Terms 1/3 down~~ Balance due Net 30 days on Approved Credit.

WIK

DRAWINGS ENTITLED: Lafitte Seafood Pavilion
Town of Jean Lafitte

DRAWINGS DATED: 09-14-12

SHEET INDEX: SEE EXHIBIT "A"

ADDENDUMS: ADDENDUM NO. 1 DATED, JANUARY 18, 2013
ADDENDUM NO. 2 DATED, JANUARY 29, 2013
ADDENDUM NO. 3 DATED, FEBRUARY 1, 2013

Should there be any delay in the delivery of the equipment, material, or supplies described in the Purchase Agreement due to any work stoppage, slow down, strike, picketing, boycott, or any delivery, delays the progress of the work to be performed at the construction jobsite, the Contractor shall have the right to declare this Purchase Agreement in default after giving the Supplier twenty-four (24) hours written notice of the intention of the Contractor to claim such a default. The Contractor in such event shall be authorized and empowered to cause the immediate delivery within five (5) days after it has declared the Supplier in default, then the Supplier shall also be liable to the Contractor because of the delay in delivery, provided such delay is attributable to the Suppliers default.

If the Supplier should default on any provision of this Purchase Agreement, Supplier agrees to pay all costs, Contractor's reasonable Attorney's Fees and damages to correct work in place and interest.

DELIVERY: Furnish all shop drawings, brochures, samples, etc. within five (5) days after receipt of Purchase Agreement. Supplier must submit no less than five (5) copies of each item to be approved by the General Contractor and/or Architect. If you wish more than one copy returned increase this number. COMPLETE FABRICATION AND DELIVERY NO LATER THAN TWO (2) WEEKS AFTER APPROVAL AND/OR IN ACCORDANCE WITH THE JOB PROGRESS SCHEDULE.

TEN (10) DAYS 2/1/2013

In the event that the Contractor receives any change orders from the Owner that involves or requires the Contractor to obtain prices therefore from the Supplier, the Supplier agrees to furnish said requested prices to the Contractor within seventy two (72) hours after the Contractor has requested such prices. The Supplier understands, acknowledges and hereby agrees that, if he/she/it fails to provide the requested prices to the Contractor within seventy two (72) hours as provided hereinabove, the Contractor, at its option may at any time after said seventy two (72) hours, provide its estimate for the change order to the Owner. The Supplier hereby agrees that, if it/he/she should fail to furnish the requested prices to the Contractor within seventy two (72) hours as provided hereinabove and the Contractor includes prices for Suppliers materials in its estimate to the Owner on the change order, it (the Supplier) will perform the work in accordance with the change order for the prices that the Contractor includes in its estimate to the Owner on the change order.

APPLICABLE LAW: This agreement is to take effect in Louisiana, and is to be governed and controlled by the laws of the State of Louisiana, Parish of Jefferson.

PETE VICARI GENERAL CONTRACTOR, LLC.
 (Contractor)

NATURAL STRUCTURES
 (Supplier)

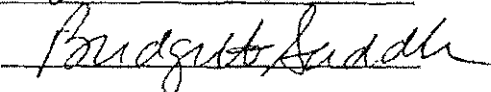
BY:



BY:

Printed: Peter G. VicariPrinted: Jodie HausotterTITLE: MemberTITLE: office ManagerDATE: 8-14-13DATE: 8-6-2013

WITNESS:



WITNESS:



EXHIBIT 1
 PAGE 2 OF 3

Exhibit "A"

Plan Index

SHEET INDEX			
T01	TITLE SHEET	S01	PROMENADE FOUNDATION PLAN AND DETAILS
C01	SURVEY	S02	PROMENADE FOUNDATION DETAILS
C02	DEMOLITION PLAN	S03	MISCELLANEOUS STRUCTURAL DETAILS
C03	SITE PLAN	S04	G.W.U. WALL DETAILS
C04	DRAINAGE AND GRADING PLAN	S05	PICNIC WHARF AND BOARDWALK PILING PLAN
C05	GENERAL NOTES, LEGEND AND MISCELLANEOUS DETAILS	S06	PICNIC WHARF FRAMING PLAN AND DETAILS
C06	MISCELLANEOUS DETAILS	S07	PICNIC WHARF SHELTER FOUNDATION DETAILS
A01	FLOOR PLAN - PROMENADE	S08	BOARDWALK DETAILS
A02	VENDING PAWLIONS & PLAN ENLARGEMENTS	M00	MECHANICAL NOTE, LEGEND, SCHEDULES
A03	PLAN ENLARGEMENTS & SCHEDULES	M1.0	MECHANICAL SITE PLAN
A04	EXTERIOR ELEVATIONS	M1.1	MECHANICAL PLAN/PAYLIONS
A05	PICNIC WHARF EXTERIOR ELEVATIONS & SECTIONS	M1.2	MECHANICAL PLAN/PROMENADE
A06	PLAN ENLARGEMENTS & BUILDING SECTIONS	M2.0	MECHANICAL DETAILS
A07	INTERIOR ELEVATIONS	E-1.0	SYMBOLS AND NOTES
A08	INTERIOR ELEVATIONS & DETAILS	E-2.0	ELECTRICAL SITE PLAN
A09	ROOF PLAN - PROMENADE	E-3.0	VENDING BOOTH LIGHTING PLAN
A10	VENDING ROOF PLAN & ROOF DETAILS	E-3.1	PROMENADE LIGHTING & FIRE ALARM PLAN
A11	REFLECTED CEILING PLAN - PROMENADE	E-4.0	VENDING BOOTH POWER PLAN
A12	PAYLION REFLECTED CEILING PLANS & DETAILS	E-4.1	PROMENADE POWER & COMMUNICATION PLAN
A13	WALL SECTIONS	E-5.0	BAR/CAFE EQUIPMENT SCHEDULES & DETAILS
A14	OPENING DETAILS	E-5.1	ELEVATION DETAILS
A15	ARCHITECTURAL DETAILS	E-5.2	ALTERNATE LIGHTING PLAN
A16	BUILDING SIGN DETAILS	E-6.0	ONE LINE DIAGRAM & PANEL SCHEDULES
A17	ARCHITECTURAL DETAILS	E-6.1	LIGHTING CONTROL PANEL DETAILS

EXHIBIT 3
PAGE 3 OF 3



INVOICE

P.O. BOX 270 Baker City, OR 97814
(541) 523-0224 FAX (541) 523-0231

S		S	Pete Vicari General Contractor
O		H	c/o Lafitte Seafood Pavilion
L	Pete Vicari General Contractor LLC	I	920 Jean Lafitte Blvd
D	1900 Destrehan Avenue	P	Lafitte, LA 70067
	Harvey, LA 70058	FAX:	504-347-1522
T		T	EMAIL: office@petevicari.com
O	PHONE: 504-347-1196	O	PHONE: 504-347-1196
	CONTACT: Peter Vicari		CONTACT: Peter Vicari

CUSTOMERS ORDER #	ACKNOW DATE	SALESMAN	REF#	INVOICE DATE	INVOICE #
Verbal	7/10/2013	Leslie		9/5/2014	13-S141A
SHIPPED VIA		F.O.B.	WHEN SHIP	TERMS:	
Duty Systems			9/5/2014	Net 30	
DO NOT PAY IN CASH		APPROX. SHIP BY DATE:			

NATURAL STRUCTURES IS NOT RESPONSIBLE FOR PAYMENTS MADE TO SALES AGENTS

PAYMENTS MUST BE MADE BY CHECK OR MONEY ORDER OR DRAFT DRAWN IN FAVOR OF NATURAL STRUCTURES

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1	Ref: Picnic Wharf Pavilion 98M-R32080-6TSPSB Rocky Mountain Series Shelter Size: 32 x 80 Steel Post & Beam Eave Height: Roof Pitch: 6/12 Roof Deck: 2 x 6 Tongue & Groove Fir Roof Facia: 2 x 6 Fir SFS Roof Style: Gable Roof Material: Asphalt Shingles Dormer: 25' x 14' Post: Square Finish: Hot Dip Galvanized w/Natur Kote & Polyester Powdercoat	97370.00	97370.00
1	Welder Certification Package		
1	State of Louisiana Engineering Stamp		
	Wind Load: 150 mph Class C		
	Snow Load: 30#		
1	NS Technical Supervision 2 days		
	TOTAL PRODUCT		\$ 97,370.00
	CASH WITH ORDER DISCOUNT \$		
	SUB-TOTAL		97370.00
	SHIPPING & HANDLING	7375.00	7375.00
	TOTAL SALE		\$ 104,745.00
	PAYMENTS MADE Check #24504	27263.00	(27,263.00)
	PAYMENTS MADE		
	BALANCE		\$ 77,482.00

No Merchandise Will Be Accepted For Return For Credit Without Prior Authorization

This invoice constitutes a conditional sales contract
with full title to the merchandise resting
with the seller until paid in full by the purchaser.
PLEASE PAY FROM THIS INVOICE

EXHIBIT 2
PAGE 1 OF 1

Thank You

EXHIBIT A
PAGE 7 OF 7